

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

**YOLANDA GUERRERO AND
FIDENCIO GUERRERO**
Plaintiffs,

v.

STATE FARM LLOYDS
Defendant.

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CASE NO. _____

DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL

Defendant **STATE FARM LLOYDS** ("State Farm") files this Notice of Removal.

PROCEDURAL BACKGROUND

1. Plaintiffs YOLANDA GUERRERO AND FIDENCIO GUERRERO filed this action on August 26, 2019, against State Farm Lloyds, in the 36th Judicial District Court of San Patricio County, Texas. That case was docketed under cause number S-19-5838CV-A (the "State Court Action").
2. State Farm was served with process on September 3, 2019.
3. State Farm filed its Original Answer on September 26, 2019 and its First Amended Answer and Verified Plea in Abatement on September 30, 2019.
4. State Farm timely files this Notice of Removal pursuant to 28 U.S.C. §1446 to remove the State Court Action from the 36th Judicial District Court of San Patricio County, Texas, to the United States District Court for the Southern District of Texas, Corpus Christi Division.

NATURE OF THE SUIT

5. This lawsuit involves a dispute over alleged non-payment of insurance benefits and the handling of Plaintiffs' insurance claim. Plaintiffs' claim is for damages allegedly sustained to the

property as the result of an August 25, 2017 storm that passed through Sinton, San Patricio County, Texas. (*See Plaintiffs' Original Petition* at ¶ 2.)

6. Plaintiffs' Original Petition asserts causes of action against Defendant State Farm for breach of contract, intentional violations of Chapters 541 and 542 of the Texas Insurance Code and intentional breach of the common law duty of good faith and fair dealing. (*See Plaintiffs' Original Petition* at ¶¶ 27-41.)

BASIS FOR REMOVAL

7. The Court has jurisdiction over this action under 28 U.S.C. § 1332 because there is and was complete diversity between all real parties in interest (Plaintiffs and State Farm) and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

Diversity of Citizenship

8. At the time the State Court Action was commenced, Plaintiffs were and still are residents and citizens of Texas. *See Plaintiffs' Original Petition* at ¶ 2.

9. Defendant State Farm was at the time this action was commenced, and still is, a citizen of Illinois. State Farm is a “Lloyd's Plan” organized under chapter 941 of the Texas Insurance Code. It consists of an unincorporated association of underwriters who were at the time this action was commenced, and still are, all citizens and residents of Illinois, thereby making State Farm Lloyds a citizen of Illinois for diversity purposes. *See Royal Ins. Co. of Am. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882-83 (5th Cir. 1993) (citizenship of unincorporated association determined by citizenship of members).

10. Plaintiffs allege in their petition that Defendant, among other things, conducted an unreasonable investigation, committed knowing and/or intentional violations, severely undervalued and/or omitted damages to both the exterior and the interior, and failed to fully

pay Plaintiffs for damage to the roof and exterior elevations. *See Plaintiffs' Original Petition* at ¶ 12.

Amount in Controversy

11. Plaintiffs' Original Petition states that "damages sought are pursuant to Rule 47(c)(3)," which means that they may seek monetary relief of no less than \$200,000.00, but no more than \$1,000,000.00. *See Plaintiffs' Original Petition* at Prayer. Therefore, the threshold amount in controversy, given the Rule 47 pleading described above, is met.

REMOVAL IS PROCEDURALLY CORRECT

12. This Notice of Removal is timely under 28 U.S.C. § 1446(b). State Farm was served with process on September 3, 2019. Because this removal was brought within thirty days of the case obtaining removal jurisdiction and because the suit has not been on file more than a year, this removal is timely.

13. Venue is proper in this Division under 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action has been pending.

14. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders in the State Court Action are attached herein to the Index of Matters Filed (Exhibits 1A-1D).

15. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of State Farm's Notice of Removal was promptly given to all parties and to the clerk of the 36th Judicial District Court of San Patricio County, Texas.

16. All documents required by Local Rule 81 to be filed with this Notice of Removal are attached herein to the Index of Matters Filed (Exhibit 1).

PRAYER

State Farm Lloyds respectfully requests that the State Court Action be removed and placed on this Court's docket for further proceedings. State Farm Lloyds also requests any additional relief to which it may be justly entitled.

Respectfully submitted,

/s/ Elizabeth Sandoval Cantu

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was e-served on all counsel of record on the 1st day of October, 2019, as indicated below:

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